IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4318 of 2007()

CRIME NO. 531/07 OF KALAMASSERY POLICE STATION

PETITIONER

MATHEW I.J., AGED 36 YEARS,
S/O.I.M.JOSEPH, ILLIPARAMBIL HOUSE,
VADUTHALA.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS:

C.I. OF POLICE,
KALAMASSERY POLICE STATION, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4318 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner's name is shown as Mathew. The first accused in the crime is the petitioner and his name is ascertained as Binoy @ Mathew. The crime is registered, inter alia, under Section 392 I.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner has initiated proceedings under Section 138 of the N.I. Act against the defacto complainant. That case is pending. Infuriated by the conduct of the petitioner initiating such a prosecution, false allegations are now belatedly raised that the petitioner went to the house of the defacto complainant demanding money and indulged in culpable overt acts. The allegation is false. The petitioner may be saved of the undeserved and unjustified trauma of arrest and incarceration in prison, submits the learned counsel.

2. The learned Prosecutor does not seriously oppose the application. He only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation.

3. I am satisfied that the petitioner can be granted anticipatory bail. It is unnecessary in the circumstances of the case to advert to the facts in any greater detail. Subject to appropriate conditions, directions under Section 438 Cr.P.C. can be issued in favour of the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 24.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that the petitioner executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 25.7.07 and 26.7.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 24.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 24.7.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 24.7.2007.

(R. BASANT)
Judge

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